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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Schmitt, P. J.

Serial No.: 09/368,848

Filed: April 5, 1999

For: RADIALLY EXPANDABLE
TUBULAR PROSTHESIS



Examiner: Isabella, D. J.

Group Art Unit: 3738

Docket: 498-18 DIV/RES

Dated: May 6, 2002

Commissioner for Patents
Washington, DC 20231-0001

REISSUE DECLARATION

Sir:

I, Peter J. Schmitt, declare that I am a citizen of the United States and a resident of
Garnerville, New York, and:

that I believe that I am the original and first inventor of the subject matter claimed in
U.S. Patent No. 5,653,746 (hereinafter the '746 patent) entitled "Radially expandable tubular
prosthesis";

that I have reviewed and understand the specification of the accompanying reissue
application, including the claims;

that I believe that I am the original and first inventor of the subject matter which is
claimed and for which a reissue patent is sought; and

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that I acknowledge our duty to disclose to the U.S. Patent and Trademark Office all information known to us to be material to patentability as defined in 37 C.F.R. 1.56.

I further declare that I believe the above-identified original patent to be partly inoperative or invalid by reason of our claiming less than I had a right to claim in the original patent. Specifically, I believe that the original patent is partly inoperative or invalid for including limitations in the claims that were not required by the prior art.

After reviewing the specification and issued claims of the '746 patent and consulting the patent attorneys of Hoffmann & Baron, who are outside counsel for Meadox Medicals, Inc., the assignee of the '746 patent, I came to the realization that I had inadvertently failed to claim certain broad aspects of my invention.

I believe that the error constituted inadvertent failure to appreciate the full scope of the claims which were available in view of the prior art, and that the error arose without any deceptive intent on my part.

Claim 11 of the reissue application corresponds generally with claim 1 of the '746 patent. Claim 11, however, differs from claim 1 in at least one respect, including, for example:

The limitation "having yarns which extend around the circumference of said fabric" included in claim 1 does not appear in claim 11. Claim 11 instead uses more functionally limiting language

Furthermore, I did not include method of making the prosthesis claims which were added additionally as claims 22-27. None of the subject matter claimed in the reissue application represent matter excluded by prosecution of the '746 patent.

These and other limitations in the issued claims resulted from the apparent failure of myself and patent counsel to fully appreciate the limiting nature of the claim limitations, as well as failure to fully appreciate the full scope of the invention as taught by the specification.

I declare that all statements made herein of my own knowledge are true, and that all statements made upon information and belief are believed to be true, and further that these statements were made after being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such false statements may jeopardize the validity of this application or any patent issuing thereon.

Full name of sole inventor

Peter J. Schmitt

Inventor's Signature

[Signature]

Date

5/21/02

Residence

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